

Introduced by Senator Escutia

December 6, 2004

An act to amend Sections 49430, and 49431 of, and to add Section 49431.2 to, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 12, as introduced, Escutia. School food nutrition.

Existing law prohibits the sale of certain beverages and food items at elementary, middle, and junior high schools.

This bill would, commencing July 1, 2007, revise those provisions to include, among other things, portion size restrictions.

The bill would prohibit the sale of certain beverages and food items at high schools, commencing July 1, 2007, and would require the person or persons responsible for implementing this act at each high school to ensure compliance with its provisions.

The bill would provide the intent of the Legislature that the governing board of a school district annually review its compliance with certain nutrition standards.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) The State of California has the second highest rate of
4 overweight and low-income children in the nation.

5 (b) The growing epidemic of overweight children is due to
6 poor diet and physical inactivity, putting growing numbers of
7 California children at risk for type 2 diabetes, hypertension, heart

1 disease, and cancer, along with psychological problems,
2 including low self-esteem, poor body image, and symptoms of
3 depression.

4 (c) Physical inactivity and nutrition-related diseases are the
5 second leading cause of preventable death in the United States.
6 These diseases account for 28 percent of preventable deaths each
7 year, which is more than AIDS, violence, car crashes, alcohol,
8 and drugs combined.

9 (d) In 2001, 26.5 percent of California pupils in grades 5, 7,
10 and 9 were overweight, with rates being even higher for
11 African-American children (28.6 percent) and Latino children
12 (33.7 percent). In some legislative districts, more than 35 percent
13 of pupils are overweight. Nationally, the prevalence of
14 overweight among children and adolescents has increased nearly
15 four-fold in the last 40 years.

16 (e) Obesity costs California an estimated \$21.7 billion a year
17 in medical costs and lost productivity. Medical care costs
18 associated with obesity are greater than those associated with
19 both smoking and problem drinking.

20 (f) Diabetes has also reached epidemic levels primarily as a
21 result of the growing obesity epidemic. Type 2 diabetes, which
22 until recently affected only adults, now affects a growing number
23 of children, accounting for almost 50 percent of new diabetes
24 cases among children in some U.S. communities.

25 (g) Healthy eating plays an important role in learning and
26 cognitive development. Children who do not get adequate
27 nutrients have lower academic test scores.

28 (h) Because children spend approximately one-third of their
29 day at school, schools play an important role in children's ability
30 to acquire adequate nutrients.

31 (i) A recent study found that severely overweight pupils miss
32 nine days of school per year. The same study estimated that
33 average size school districts in California may lose as much as
34 one hundred sixty thousand dollars (\$160,000) per year, and very
35 large districts may lose as much as \$15 million per year as a
36 result of reduced average daily attendance resulting from
37 childhood obesity-related absences.

38 (j) Health and education leaders agree that one of the most
39 critical steps to helping children practice healthy eating habits is

1 to establish policies and programs that increase access to healthy
2 foods and beverages.

3 (k) While the United States Department of Agriculture
4 (USDA) regulates the nutrient content of meals sold under its
5 reimbursable meal programs, similar standards do not exist for
6 “competitive foods” that are sold outside the USDA meal
7 programs. Competitive foods are often very high in added sugar,
8 sodium, and fat.

9 (l) In a 2003 survey, 94 percent of responding California
10 school districts with a high school reported that they sell
11 competitive foods. The most common fast food items were chips,
12 pizza, cookies, and soda.

13 (m) Only 2 percent of California youth 12 through 17 years of
14 age consume foods that meet national dietary recommendations.
15 Approximately 70 percent of U.S. children age 2 through 11
16 years consume foods that exceeded current dietary
17 recommendations for intakes of total and saturated fat. Only 21
18 percent of California children meet the goal of eating five
19 servings of fruits and vegetables per day.

20 (n) Soft drinks comprise the leading source of added sugar in a
21 child's diet. Each additional daily serving of sugar-sweetened
22 soda increases a child's risk for obesity by 60 percent. Twenty
23 years ago, boys consumed more than twice as much milk as soft
24 drinks, and girls consumed 50 percent more milk than soft
25 drinks. By 1966, both boys and girls consumed twice as many
26 soft drinks as milk.

27 (o) Teenage boys consume twice the recommended amount of
28 sugar each day, almost one-half of which comes from soft drinks.
29 Teenage girls consume almost three times the recommended
30 amount of sugar, 40 percent of which comes from soft drinks.

31 (p) In October 2004, the USDA announced the “Healthier US
32 Challenge” to encourage schools and parents to continue
33 promoting healthy lifestyles for children. Schools can participate
34 in the challenge by meeting nutritional standards that are based
35 on California standards. The challenge is available to elementary
36 schools during the first year and middle and high schools will be
37 invited to participate during the second year.

38 SEC. 2. Section 49430 of the Education Code is amended to
39 read:

1 49430. As used in this article, the following terms have the
2 following meanings:

3 (a) “Elementary school” means a public school that maintains
4 any grade from kindergarten to grade 6, inclusive, but no grade
5 higher than grade 6.

6 (b) “Middle school” means any public school that maintains
7 grade 7 or 8, ~~but no grade higher than grade 9~~ *7 to 9, inclusive, or*
8 *7 to 10, inclusive.*

9 (c) “High school” means any public school maintaining any of
10 grades 10 to 12, inclusive.

11 (d) “Full meal” means any combination of food items that
12 meet a USDA-approved meal pattern.

13 (e) *“Added sweetener” means any additive other than 100*
14 *percent fruit juice that enhance the sweetness of a beverage.*

15 SEC. 3. Section 49431 of the Education Code is amended to
16 read:

17 49431. (a) ~~At Commencing July 1, 2007, at each elementary~~
18 ~~school, and in those schools participating in the pilot program~~
19 ~~created pursuant to Section 49433.7,~~ the sale of all foods on
20 school grounds shall be approved for compliance with the
21 nutrition standards in this section by the person or persons
22 responsible for implementing these provisions as designated by
23 the school district.

24 (b) (1) At each elementary school, the only food that may be
25 sold *or served* to a pupil during breakfast and lunch periods is
26 food that is sold *or served* as a full meal. This paragraph does not
27 prohibit the sale of fruit, nonfried vegetables, *or* legumes,
28 ~~beverages, dairy products, or grain products~~ as individual food
29 items if they meet the requirements set forth in this subdivision.

30 (2) ~~An individual food item sold to a pupil during morning or~~
31 ~~afternoon breaks at an elementary school~~ *Foods sold or served to*
32 *pupils at an elementary school, except food sold or served as*
33 *part of a USDA meal program,* shall meet all of the following
34 standards:

35 (A) Not more than 35 percent of its total calories shall be from
36 fat. This subparagraph does not apply to the sale of ~~nut~~ *or, nut*
37 *butters, seeds, eggs, cheese packaged for individual sale, fruits,*
38 *vegetables, or legumes.*

1 (B) Not more than 10 percent of its total calories shall be from
2 saturated fat. *This subparagraph does not apply to eggs or cheese*
3 *packaged for individual sale.*

4 (C) Not more than 35 percent of its total weight shall be
5 composed of sugar, *including naturally occurring and added*
6 *sugar.* This subparagraph does not apply to the sale of fruits or
7 vegetables.

8 (D) *Portion size for a la carte sales in a cafeteria shall not*
9 *exceed the serving size of the food served in the National School*
10 *Lunch Program or School Breakfast Program. Food items sold*
11 *through vending machines shall not exceed 200 calories per*
12 *item.*

13 (c) An elementary school may permit the sale of food items
14 that do not comply with subdivision (a) or (b) as part of a school
15 fundraising event in any of the following circumstances:

16 (1) The items are sold by pupils of the school and the sale of
17 those items takes place off of school premises.

18 (2) The items are sold by pupils of the school and the sale of
19 those items takes place at least one-half hour after the end of the
20 schoolday.

21 ~~(d) Notwithstanding Article 3 (commencing with Section~~
22 ~~33050) of Chapter 1 of Part 20, compliance with this section may~~
23 ~~not be waived.~~

24 ~~(e) (1) This section shall become operative only if moneys are~~
25 ~~appropriated for each of the following purposes:~~

26 ~~(A) Providing nutrition policy development grants pursuant to~~
27 ~~subdivision (c) of Section 49433.~~

28 ~~(B) Support and technical assistance to school districts~~
29 ~~pursuant to Section 49433.5.~~

30 ~~(C) Increasing meal reimbursements pursuant to Section~~
31 ~~49430.5.~~

32 ~~(2) The department shall file a written statement with the~~
33 ~~Secretary of the Senate and the Chief Clerk of the Assembly~~
34 ~~when funds have been appropriated to meet the conditions of~~
35 ~~paragraph (1). The statement shall state the annual Budget Act or~~
36 ~~other measure in which each appropriation was made.~~

37 ~~(d) It is the intent of the Legislature that the governing board~~
38 ~~of a school district annually review its compliance with the~~
39 ~~nutrition standards described in this section and Section~~
40 ~~49431.5.~~

1 SEC. 4. Section 49431.2 is added to the Education Code, to
2 read:

3 49431.2. (a) Commencing July 1, 2007, at each middle or
4 junior high school, and commencing July 1, 2007, at each high
5 school, all foods sold or served to a pupil on school grounds shall
6 be approved for compliance with the nutrition standards in this
7 section by the person or persons responsible for implementing
8 these provisions as designated by the school district.

9 (b) Foods sold or served to a pupil in middle, junior, or high
10 school, except food served as part of a USDA meal program,
11 shall meet all of the following standards:

12 (1) Not more than 35 percent of its total calories shall be from
13 fat. This paragraph does not apply to the sale of nuts, nut butters,
14 seeds, eggs, cheese packaged for individual sale, fruits, nonfried
15 vegetables, or legumes.

16 (2) Not more than 10 percent of its total calories shall be from
17 saturated fat. This subparagraph does not apply to eggs or cheese
18 packaged for individual sale.

19 (3) Not more than 35 percent of its total weight shall be
20 composed of sugar, including naturally occurring and added
21 sugars. This paragraph does not apply to the sale of fruits or
22 vegetables.

23 (4) Portion size for a la carte sales shall not exceed the serving
24 size of the food served in the National School Lunch Program or
25 School Breakfast Program. Food items sold through vending
26 machines shall not exceed 200 calories per item.

27 (c) A middle, junior, or high school may permit the sale of
28 food items that do not comply with subdivision (b) in any of the
29 following circumstances:

30 (1) The sale of those items takes place off of school premises.

31 (2) The sale of those items takes place on school premises at
32 least one-half hour after the end of the schoolday.

33 (3) The sale of those items occurs during a school-sponsored
34 pupil activity after the end of the schoolday.

35 (d) It is the intent of the Legislature that the governing board of
36 a school district annually review its compliance with the nutrition
37 standards described in this section.